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NOTES OF THE WEEK

Advocates in Juvenile Courts

Juvenile court magistrates have been heard to say in private conversation that they would like to see the law altered so that a juvenile charged with an offence could not be legally represented. It is, they say, unnecessary, and often encourages a child to put up a defence that is quite untrue, or to escape being found guilty by reason of a purely technical point. The court, they go on to say, will do what is best for the offender and is only hampered in that task when legal arguments are introduced.

This really will not do, and we think the number of magistrates who think and talk thus is diminishing as the nature of a magistrate's duties is better appreciated. Even a young child is entitled to as fair and patient a trial as an adult, and questions of welfare must not be allowed to enter into the case unless and until the defendant has been found guilty. The advocate may help the court, and this is not only by putting forward a defence (which, of course, may be perfectly true) but also by pleading on behalf of an offender who is inarticulate and whose parent may be not much better. There are cases in which it is proper to grant a legal aid certificate in respect of a juvenile, and a juvenile court sometimes adopts this course. The proceedings may take longer, but the result may be more satisfactory in that everybody will feel that, whichever way the case went, there was a careful trial and that the defence was given every opportunity of putting all it desired before the court.

Order in Court

Reading a report of proceedings in a magistrates court during which there was apparently some want of decorum among members of the public, we noticed a statement that a police officer ordered one person to leave the court. This may have been a correct procedure on the part of the officer, but it would be unfortunate if the general public had the impression that it is for the police to decide who may remain in court and who may be ordered out. That is the province of the magistrates. If, in the particular instance to which the newspaper referred, the chairman of the bench had requested the police officer to turn out anyone who created any disorder, then no doubt he was only carrying out instructions, but in the absence of any instructions or request from the bench it would, we consider, be improper for the police to order anyone to leave because the person in question was not, in their judgment, behaving properly.

Of course, if there is serious disorder, perhaps uproar, in court, the magistrates naturally look to the police present in court to eject any particular person, or to clear the court of the public at their request. Moreover, if there is violence being used a police officer is the right person to restrain those guilty of it, and possibly to make an arrest. Our point is that if the court has not given any instructions about ordering a person or persons to leave, and there is no breach of the peace calling for police intervention, the police ought not to exercise their own judgment and decide that someone should be ordered to leave. It would be a pity if the general public, now beginning to get used to the term "magistrates' court," should be misled into thinking that the court is in fact a police court, in which the police are in control.

Of course, we are not referring to the action of a police officer who sees that his witnesses leave the court and remain outside until they have given evidence. We are concerned only with the question of order or disorder.

Documents Transmitted in Probation Cases

On the making of a probation order, the court is required, by s. 3 (6) of the Criminal Justice Act, 1948, if it is not itself the supervising court, to send to the clerk to the justices of the supervising court a copy of the order, together with such documents and information as it considers likely to be of assistance to the supervising court. These documents will usually include the report of a probation officer, perhaps a school report, and perhaps a medical or psychological report. There may, of course, be other documents, but these are the commonest. In some cases, especially those dealt with on indictment, there is likely to be a written police report.

Questions are sometimes raised about the propriety of sending police reports

to the supervising court, on the ground that these are submitted confidentially to the court of trial and should not be sent to anyone else. Against this it may be said that they may be of value to the supervising court and the probation officer, who can safely be trusted not to communicate them improperly to other people, and that in all probability the information contained in them has been given orally in court in the presence of press and public. On the whole, we are of opinion that as a general practice there is more to be said in favour of transmitting the reports than against it. Exceptional cases, if they occur, can always be dealt with specially.

Child Witnesses

According to a report in *The Birmingham Post*, a defending solicitor took objection to the swearing of a child, eight years of age, on the ground that she would not understand the meaning of committing perjury. It appears that the defendant admitted a charge of indecent assault on a six year old girl and the witness made an unsworn statement.

The capacity of a child of tender years to give sworn evidence is not simply a matter of age, and a statement said to have been made in this case that children over the age of seven years were by law permitted to take the oath, needs some qualification. The law does not lay down a particular age, but leaves it to the court to decide whether or not the child understands the nature of an oath, so as to give evidence in the ordinary way, and if not whether he is of sufficient intelligence to make an unsworn statement and understands the duty to speak the truth. Usually the court asks the child a few questions before deciding whether it will allow the child to give evidence on oath, or to give evidence without being sworn, or will decline to allow it to do either. It may be proper, it seems, for the court to allow witnesses to be called on this particular issue, in which case it would no doubt be proper to allow cross-examination, though such a procedure is rare, the court usually arriving at its decision as the result of its own questions to the child.

The importance of the distinction between sworn and unsworn evidence lies in its effect upon the question of the necessity for corroboration.

Wise After the Event

A man recently told the Sutton Coldfield magistrates that he would take two jobs to enable him to repay £325 he had embezzled while manager of a furniture shop. He was fined on two charges, placed on probation in respect of four others and ordered to make good the deficiency. The defendant said it would never have happened but for the fact that he was severely in debt at home.

It would have been better if it had occurred to him to work at two jobs in order to avoid getting deeply into debt, instead of incurring debts and then resorting to dishonesty. It is unfortunately typical of many offenders that they get themselves into a hopeless position and only after they are prosecuted do they turn to friends or seek other means of solving their problems. It must be admitted that friends often come forward in the hope of keeping a man out of prison when possibly they would not have been so ready to help before the danger arose. But that is not so in all cases, and the man is foolish not to ask for help rather than resort to dishonesty. The wise course is to look for means of earning more money, as this man did rather late in the day, and not to wait until things have come to a climax.

Work or Maintenance?

"Work or maintenance" is a comfortable sort of slogan, and but for the frailties of human nature it would be sound in general application. If a hard-working man is out of employment through sheer misfortune and only too anxious to be at work again, it is right that the welfare state should maintain him and his family, if not at the same standard as he would attain by work, at least at a level well above poverty and hardship.

The trouble is that a certain number of men prefer idleness, if they can get ample assistance out of public money, rather than work for wages which they consider too low to make work worth while.

In the *Newcastle Journal* there is a report of a case heard by the West Hartlepool juvenile court, in which a girl was charged with stealing, and was committed to the care of the local authority. Her father was ordered to make restitution and pay costs within nine weeks, whereupon he said he could not pay it. From the report it appears that he was receiving £6 a week in unemployment benefit and £2 in family allowances, and that the local authority already had two of his children in care.

The man, who was unemployed, is stated to have told the court: "There are no jobs to be got. If there are any I should take them. There is no laziness about me" and later to have added: "I would take a job if it suits me—if the wages are good. The wages have to suit the wife." The chairman said the court did not agree with anything the man had said; there were jobs to be had.

From the *Liverpool Daily Post* we quote the case of a man charged with stealing 81 *lbs.* of coal, who made the excuse that his wife was expecting a child, and he had no means of a fire on a cold day. That sounds rather pitiful, but a police inspector told the court that the defendant had a record dating back to 1946 for theft; there was no reason why he did not get work, he had been discharged from one job for theft and had left a good steady job with a local firm of his own accord. He was fined £2.

First and Last Pint

Most travellers know how the name *Est, est, est* became attached to the white wine produced in a small area of central Italy, though perhaps not many, even of those whom pious motives have taken to Bolsena, scene of the miracle of Corpus Christi will have made the further journey to Montefiascone. Fewer still can have seen the libation of wine stated by the guide-books to be poured annually on Bishop Fugger's tomb in Saint Flavian's Church on the anniversary of his death, in gratitude for his having brought fame to the local vineyards when he chose Montefiascone as the place to drink himself to death. A solemn English guide-book, calls this a stupid tale; others accept it at face value, among the things which give spice to continental travel because they could not happen here. But stay. Bert Jackson of Edenthorpe in Yorkshire had, according to his widow, "always liked his pint," and his last wish before he died at 79 was that he might drink the first pint drawn in the new village club when it was completed. Alas, death moved faster than the builders, but when at last the club was opened the first pint drawn was given to Mrs. Jackson, who poured it on her husband's grave in the parish churchyard. "Most regrettable," wrote the vicar in the parish magazine, and, according to the national press, he thinks there ought to be "some law under which action could be taken against those who treat a grave in such a manner." As the *News Chronicle* expresses it, a row has been sparked off, between those who uphold the widow's piety—in the classical sense of that word as applied, for example, to Electra, and those who regard beer as an affront to the sacred character of the place. This sort of thing may be well enough (perhaps) for a Bavarian bishop buried in a Latin country, but we do not do these things in England. Such, we suspect, is the first reaction to the story of a large section of those who read it in

the newspapers. We do not, however, think the law as it stands can interfere.

The decision in *Hoskyns-Abrahall* v. *Paignton U.D.C.* (1929) 93 J.P. 93, shows that the purchaser of exclusive rights of burial in a vault, in ground provided by a local authority, does not thereby acquire a right to go into the vault and therein perform religious ceremonies. This, however, is far from what was done at Edenthorpe. It may be a technical trespass in a churchyard, and equally in a burial ground or cemetery provided under statute, to pour liquid on the ground, but this (for what it is worth) does not depend upon the composition of the liquid. Incidentally, does the transgression attributed to Mrs. Jackson turn upon that composition? In other words, if the president of a teetotal society is honoured by his followers, by pouring water on his grave, is the breach of decorum the same as when Mr. Jackson's favourite beverage was used? We seem to be growing a little speculative at this point; what we should really like to know is: What would Chesterton and Belloc have found to say upon the matter?

THE ENFORCEMENT OF THE FOOD HYGIENE REGULATIONS, 1955

By K. T. SAMSON

The Food Hygiene Regulations, 1955, made pursuant to ss. 13 and 123 of the Food and Drugs Act, 1955, lay down certain requirements as to the structure, fixtures, equipment, and cleanliness of food premises and as to persons engaged in the handling of food. They also deal with food stalls and the transport of meat.

The regulations in which the requirements are set out do not themselves create offences. They merely say what shall or shall not be done. Offences are created by reg. 32, and the penalty stated in reg. 33. Regulation 32 reads as follows:

1. If the occupier of any food premises fails to comply with the requirements of these regulations with respect to the structure of or provision of fixtures at or in the food premises he shall be guilty of an offence against these regulations.
2. If the occupier of any food premises, the owner of any vehicle used for the transport of meat or the owner of any food business carried on at or from a stall fails to comply with the requirements of these regulations as to the provision of any equipment (including cloths, towels, or other drying facilities and soap or other detergents) at, on or about the food premises, vehicle or stall, as the case may be, he shall be guilty of an offence against these regulations.
3. If any person engaged in the handling of food fails to comply with any provision of these regulations, other than a provision referred to in either of the last two foregoing paragraphs, or if the occupier of any food premises, or the owner of any food business carried on at or from a stall, or any other person for the time being having the control or management of a food business fails to take all reasonable steps to secure compliance therewith by any person employed by him or under his control, he shall be guilty of an offence against these regulations.

It is submitted that this regulation fails to provide a sanction for many of the requirements laid down, and that proceedings taken for failure to comply with such requirements would be bad. It is proposed to consider a number of examples.

Regulation 11 (1) provides that an employee engaged in the handling of food who becomes aware that he is suffering from certain specified diseases must inform the occupier of the premises or, in certain cases, the owner of the business. The occupier or owner must in turn notify the local medical officer of health. What if he fails to do so? Paragraphs (1) and (2) of reg. 32 clearly do not apply. Paragraph (3) may apply if the occupier or owner himself engages in the handling of food, but it cannot apply if he does not do this. Under para. (3) an occupier or owner as such is liable only for failing to secure compliance by his employees, but not for any breach which he has himself committed.

Regulation 14 (1) (*a*) provides that every sanitary convenience in food premises should be kept clean and in efficient order. Let us take the case of food premises where the occupier does not himself engage in the handling of food, where separate cleaning staff is normally employed, and where it is no part of the work of the employees engaged in the handling of food to do any cleaning. For some reason the cleaning staff leaves. No provision is made for cleaning, and the sanitary conveniences become filthy. The breach of reg. 14 (1) (*a*) does not concern the structure of the premises, nor the provision of fixtures, nor the provision of equipment, so that paras. (1) and (2) of reg. 32 are inapplicable. There has been no breach by any person engaged in the handling of food, nor has the occupier failed to secure compliance with the regulations by any employee, because no cleaners have in fact been employed; para. (3) is therefore also inapplicable.

Regulation 22 (1) provides that no food room shall be used as a sleeping place. Take the case of a small food business where the shopkeeper lives in accommodation above or at the rear of his shop. Some friends or relatives come to stay with him, and he finds it necessary to let one of his visitors sleep in a room used for storage of food (a food room within the regulations). The contravention is clearly not within paras. (1) and (2) of reg. 32. The visitor, not being a person engaged in the handling of food, does not come within para. (3), and the host, even if he is such a person, has not contravened reg. 22 (1), as he has not used the room as a sleeping place. He has permitted the room to be so used, but reg. 22 does not cover that case.

Regulation 27 (1) (*a*) provides that every stall from which meat or fish is sold shall, if not in an enclosed and covered market place, be suitably covered and screened at the side and back so as to prevent any dirt or other contaminating substance from being deposited thereon. Let us assume that a stall does not comply with these requirements, and that it is managed by employees of the owner of the business. Paragraph (1) of reg. 32 does not apply, as it relates to food premises—that is, buildings as distinct from stalls (*see* definitions in reg. 2). Paragraph (2) does not apply, as it deals with failure to provide equipment, not with failure to comply with structural requirements. Nor does para. (3) apply, as no person engaged in the handling of food has contravened the regulations, the employees not being responsible for the structure of the stall.

Difficulties similar to those mentioned above may arise in respect of the following regs.: 14 (4) (*b*), 14 (5), 16 (4), 19 (1) (*c*), 20 and 21 (so far as they relate respectively to lighting and

ventilating suitably and sufficiently, as distinct from providing means of lighting and ventilation—the latter being requirements in respect of the structure or fixtures, and therefore within reg. 32 (1)), 24, 26 (1) (*a*), 26 (1) (*c*), 28 (1) (*a*), 28 (1) (*c*) (so far as relating to keeping sinks clean and in working order), and reg. 29 (1) (*c*).

Paragraph (3) of reg. 32 lends itself to an interpretation which would restrict the existence of offences even further than has been suggested above. A person engaged in the handling of food is to be guilty of an offence if he fails to comply with any provision of the regulations. It may be argued that his failure must be in respect of a requirement which is imposed upon him as a person engaged in the handling of food. Paragraph (3) would then apply to the requirements stated in part III of the regulations (" relating to persons engaged in the handling of food ") and to certain other requirements as to what should or should not be done in the course of handling food (*e.g.*, regs. 14 (3), 27 (3), 29 (1) (*e*), 30). The qualifying " engaged in the handling of food " would be regarded as governing the kind of failure in complying with the regulations to which para. (3) applied, and not merely as descriptive of the person liable to prosecution. If this interpretation were not followed, absurd results would follow. Let us consider two examples:

1. In one shop a person engaged in the handling of food is also required to keep the wash hand basins clean. In another shop that duty is imposed on a cleaner not otherwise employed. If the basins are not kept clean, it would surely be absurd to claim that an offence had been committed in one case, but not in the other.

2. Two proprietors of food businesses, working late at their shops, decide to stay the night on the premises, and sleep in a food room. One of them only looks after the business side of his shop and never engages in the handling of food. The other does engage in the handling of food. It would be a ridiculous position if the latter were guilty of an offence, the former not.

If the first part of para. (3) makes a person engaged in handling food guilty only of offences committed *qua person* so engaged, it follows that the second part, creating the offence of failing to take reasonable steps to secure compliance with the requirements by employees, is similarly limited. The punishable failure is to " secure compliance *therewith* "—that is, with the requirements in respect of which the employee may himself be guilty of an offence. Thus, if the occupier of food premises regularly permitted his employees to smoke while handling open food, he would be guilty of an offence. But there would be no offence if he failed to take reasonable steps to see that his cleaner did her work properly.

Regulation 32 should have been drafted on the following lines:

1. Any failure to comply with the requirements of the regulations shall be an offence.

2. A person engaged in the handling of food shall be guilty of any offence committed in the course of his handling of food.

3. In the case of all other offences the person guilty of the offence shall be the occupier of the food premises, the owner of the food business carried on from the stall, or the owner of the vehicle used for the transport of meat, as the case may be.

4. Any of the persons mentioned in (3) above, or any person for the time being having the control or management of a food business shall be guilty of an offence if he fails to take all reasonable steps to secure compliance by persons in his employment or under his control with the requirements which they should observe in the course of handling food.

It is to be hoped that the regulations will be suitably amended.

CARE OR PROTECTION—A SURVEY

By F. G. HAILS, *Solicitor, Clerk to the Dartford Justices*

It is surprising that the provisions of the Children and Young Persons Act, 1933, in relation to juveniles alleged to be in need of care or protection have attracted the attention of the Divisional Court of Queen's Bench on only two occasions, but it is disquieting that on both these occasions those who had invoked this benevolent legislation were roughly handled by the higher Court. In *Bowers & Another* v. *Smith*; *Evans & Another* v. *Smith*; *Flack & Another* v. *Smith* [1953] 1 All E.R. 320; 117 J.P. 106 three boys aged between 14 and 17 were brought, with their respective parents or guardians, before a magistrates' court as being in need of care *and* protection—although the statute says in need of care *or* protection—by reason of being exposed to moral danger owing to the failure of the parent or guardian to exercise proper care *and* guardianship. The youths were proved to have been allowed by their parents or guardians to go to a football field to play that game, but whilst there to have been " guilty of conduct of a most reprehensible character which was deserving of some condign punishment " with a depraved young woman aged over 17. The magistrates made a supervision order in each case after finding that although the conduct of each parent or guardian was unexceptionable in every other respect, each one had failed in that " the parent of the son could not have given any or adequate instruction to the latter in standards of morality and behaviour and matters of sex as shown by his conduct." The juveniles and the parents or guardians appealed, and the Divisional Court was unanimous in allowing the appeal. We shall refer later to this judgment. The case of *In re Callender* (1956) *The Times*, June 23, was of rather a different nature; here a mother rendered temporarily homeless went to live in Surrey, and for three weeks did not send her juvenile daughter to school. A children's officer of the Surrey county council brought the girl before a juvenile court which made an interim order committing her to a place of safety, and called for psychiatric reports, without, apparently finding her in need of care or protection. The mother moved for a writ of *habeas corpus*, and we venture to suggest that the scathing words of the Lord Chief Justice will not readily be forgotten.

At this stage it will be proper to consider the statutory provisions: the effect of the Children and Young Persons Act, 1933, s. 61, as amended by the Education Act, 1944, and the Children and Young Persons (Amendment) Act, 1952, is to define juveniles in need of care or protection as those who (we will call them Class I)

(i) have no parent or guardian, or

(ii) have a parent or guardian who is unfit to exercise proper care and guardianship, or

(iii) have a parent or guardian who does not exercise proper care and guardianship

and as a result are either:

(*a*) falling into bad associations, or

(*b*) exposed to moral danger, or
(*c*) beyond control, or
(*d*) ill-treated in a manner likely to cause him unnecessary suffering or injury to health, or
(*e*) neglected as in (*d*) *supra*,

or those who require care and protection as being (Class II):

(*A*) persons in respect of whom an offence under sch. I to the Act of 1933 has been committed, or
(*B*) members of the same household as juveniles in Class II, (*A*), or
(*C*) members of the same household as a person convicted in respect of a juvenile of an offence under sch. 1 of the Act of 1933, or
(*D*) female members of the same household as a person convicted of incest in respect of another female of that household

or those (Class III) who are between five years of age and compulsory school leaving age and who are taken from place to place by a person who habitually wanders so as to prevent the juvenile from receiving efficient full time education. Section 61 also provides that the fact that a juvenile is:

(*a*) found destitute, or
(*b*) found wandering without settled place of abode and visible means of subsistence, or
(*c*) found begging or receiving alms, whether or not under the pretext of singing, playing, performing, or offering to sell anything, or
(*d*) found loitering for such purpose as in (*c*),

shall be evidence that he is exposed to moral danger.

A juvenile who falls into either Class I, II or III, may be brought before a juvenile court by a local authority, a constable, or an authorized person, that is to say, in England and Wales at present, an officer of the N.S.P.C.C., Children and Young Persons Act, 1933, s. 62 (1) and (4).

In addition to juveniles in need of care or protection, a juvenile court may also deal with refractory children and young persons who are brought before the court by the parent or guardian: if the court is satisfied that the parent or guardian is unable to control his child or ward, then the court may, if satisfied that it is expedient to deal with the juvenile and that the parent or guardian understands and consents to the making of an order, deal with the case as shall be mentioned later; we shall refer to this class of case as Class IV. The statutory provisions are to be found in s. 64 of the Act of 1933.

We come next to a class we shall call V, where a juvenile is in the care of a local authority under the provisions of the Children Act, 1948, s. 1, or sch. 2, para. 1 (1), if the authority satisfies a juvenile court that the child or young person is refractory, then an approved school order may be made.

Finally, there are the Education cases: the Education Act, 1944, s. 40 (3) (*a*) and (4) provide that in certain circumstances a juvenile of school age who has not been attending school regularly may be brought before a juvenile court, either at the instance of a court which has dealt with his parent or guardian for failing to send him to school regularly, or at that of the local education authority. If on such appearance the court is satisfied that " it is necessary so to do for the purpose of securing the regular attendance of the child at school " it may make any order which it could make in the case of a juvenile found to be in need of care or protection. It will be convenient to call this Class VI.

It is quite clear that all these classes have much in common, but on the other hand the differences are important. In each one it is essential that the juvenile be brought before the court, but whilst in Classes I, II and III this power may be exercised by the local authority, a constable or an authorized person, as we have pointed out, in Class IV the proceedings must be initiated by the parent or guardian, and in Class V only the local authority can act, whilst in Class VI the initiative rests with the local education authority, either of its own volition or on the instructions of a competent court. In all the classes save VI the juvenile may be taken to a place of safety by a constable, or by a person authorized by a justice of the peace, until he can be brought before a juvenile court: Children and Young Persons Act, 1933, s. 67 (1), and even in VI an authorized person may do so where a direction is given. Where a child or young person has not been removed to a place of safety, his attendance at court may in any of the classes be enforced by summons or warrant (Summary Jurisdiction (Children and Young Persons) Rules, 1933, r. 16). If the juvenile is being brought before the court without process, then save in Class IV his parent or guardian must be given notice of the grounds of the application, and the time and place of hearing, whilst a similar notice must be sent to the clerk of the court concerned. In Classes II and III, moreover, in addition to those authorized to act by s. 61 of the Act of 1933, s. 63 not only empowers any court before which a person has been convicted of any of the offences covered to direct that the juvenile victim to be brought before a juvenile court, but also allows the convicting court to " make any order which the juvenile court might make." Where the application is under s. 64 of the Act of 1933 (Class IV) it is the duty of the court " before dealing with " the case, to send notice to a probation officer acting for the division, and to the local authority for the district in which the juvenile " is resident ".

Once the juvenile is before the court he is to be informed of the nature of the application (1933 Rules, *supra*, r. 17). The next step is to hear the evidence in support of the application in the ordinary way (r. 19) allowing the parent or guardian, or if he cannot be found " any relative or responsible person " to conduct the case in opposition to the application (r. 18), but this does not apply to Class IV, for obvious reasons. It is to be particularly noted that there is no provision for the taking of any plea, or admission of the allegations: the applicant must establish a *prima facie* case by way of evidence. If such case is made out, then the juvenile and his parents or guardian must be told that they may give evidence or make a statement and call witnesses (r. 20). Once the court is satisfied that " the child or young person comes within the description mentioned in the application, or in the case of an application under s. 64 . . ., that the parent or guardian is unable to control him " then it proceeds to hear reports exactly as if the juvenile had been charged with an offence (r. 21). The court may adjourn the case for further reports, and may make an interim order for detention in a place of safety, or to a fit person, for a period not exceeding 28 days, which may be followed by further similar orders: Act of 1933, s. 67 (2).

In passing we would point out that the term " Place of safety " is defined in s. 107 as " any home provided by a local authority under Part II of the Children Act, 1948, any remand home, or police station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive a child or young person." Having decided that the allegation is proved the court will proceed to make one of the orders which are set out in s. 62 of the Act of 1933 and which are applicable to the case. These orders are as follows:

(*a*) an approved school order. This may be made in Classes I, II, III, IV, V and VI.
(*b*) an order of committal to care of a fit person: this may be done in all cases save Class V.
(*c*) an order to the parent or guardian to exercise proper care and guardianship under recognisance: here again, this applies to all Classes save IV and V.

(*d*) an order requiring the juvenile to be under the supervision of a person named by the court, usually in practice a probation officer, for a period not exceeding three years. This applies to all Classes save V, and may be made separately or in addition to a fit person order or a parental recognizance order.

The supervision order requires some further consideration, for whilst the other orders are also applicable to juveniles who have been found guilty of offences, this last is applicable only in care or protection and kindred cases. It is in many ways similar to a probation order, although it may contain conditions, in particular a condition of residence, which the court " considers necessary for effecting the purposes of the order." But generally there are no conditions, and there is no such thing, strictly, as a " breach of supervision order." It is the duty of the supervisor to " visit, advise and befriend " . . . the juvenile " and, when necessary, endeavour to find him suitable employment " and also the supervisor is empowered " if it appears necessary in his interests so to do, at any time while the order remains in force and he is under the age of 17 years, bring him before a juvenile court: " the court may then either make a fit person or an approved school order: 1933 Act, s. 66. Equally, it may, on application being made, vary the order by imposing conditions, or it may decide that no further action is necessary. Supervision orders may also be discharged or amended, notwithstanding that the subject has attained 17: Criminal Justice Act, 1948, s. 74, amending Children and Young Persons Act, 1938, s. 4. Fit persons orders may be revoked, and supervision orders made in lieu thereof if it is not considered wise to allow the juvenile to return to his parent or guardian without some further guidance.

Now we hope that this somewhat lengthy analysis will have made it quite clear that the powers we have been discussing are not in any way punitive, although they may have effects which will seem so to the subjects of proceedings. Those who come in Classes I, II and III need not have done anything wrong: the court cannot act unless it is proved either that wrong has been done to them, or that some person has failed to do right to them. Class IV, the juvenile beyond control, is clearly designed to help the parent of the problem child: the action must be taken by the parent or guardian and by nobody else, whilst Class V is designed to help the local authority which finds itself saddled with a similar difficulty. In Class VI, the education case, there may be doubt as to who is to blame, for failure to go to school may be due to the deliberate fault, or the careless omission, of the parent, or to the waywardness of the child. That the technicalities of procedure must be strictly observed was shown *In re Callender, supra*: no doubt this would have taken time, but then the object might have been secured. Again *Bowers* v. *Smith, etc., supra*, serves as a warning that the mere fact that a juvenile does something wrong on a few occasions is not sufficient to warrant a court concluding that he is in need of care and protection, although it does make it clear that " if boys are found repeatedly committing criminal or disgraceful acts, the court may be justified in drawing the inference that parental discipline is wanting." Although Lord Goddard used the words " boys " in the passage of his judgment, the same truth applies to girls, but what of the girl of 16 who runs away from home to lead the life of a prostitute ? She is committing no offence for which she can be deprived of her liberty, her parents may have failed in their duty in no respect at all, indeed, it may have been their very insistence on decent behaviour which caused her to fly. Whatever her conduct, she does not come within the definition of " in need of care or protection " however far beyond her parent's control she may be, unless he brings her before the court or unless it can be shown that he is unfit or failing to exercise proper care and guardianship. If he has made reasonable efforts to trace her and bring her back it may be very difficult to do so, and even if he does, every police officer or social worker will realize how rarely do any efforts of reformation influence a woman who has, for whatever motive, determined to lead the life of a prostitute. What then, is to be the approach of those who have to consider whether these protective provisions apply ? Whether the problem be tackled from the angle of the local authority, the constable, the authorized person, or that of the magistrate who hears the allegations, the answer must be that the case must be considered in the light of the standards of the station of life of the family, and the standard of the locality. In *R.* v. *Board of Control, ex parte Rutty*, [1956] 1 All E.R. 795, Lord Goddard, C.J., said that a mental defective could not be said to be found neglected " because some doctors think that some form of treatment might be beneficial." He amplified these remarks in his judgment in *Callender's* case, *supra*, when he said that the mere fact that officials or doctors or anyone else thought it would be good for a child or young person to receive treatment was no ground for putting into operation the procedure of the Children and Young Persons Act, 1933, or of the Mental Deficiency Acts or that of any other Act.

ADDITIONS TO COMMISSIONS

DEVON COUNTY

Percy Harold Blackmore, 68 Rolle Street, Barnstaple.
Mrs. Hazel Tuckfield Gillies, Lynbridge House, Tavistock.
Sir Alec Seath Kirkbride, Kt., K.C.M.G., C.V.O., O.B.E., M.C., Moorlands, West Hill, Ottery St. Mary.
Keith Westwood Marten, Halshanger Manor, Ashburton.
Mrs. Kathleen Forrest Sharp, Bridge House, Sticklepath, Okehampton.
Dr. Mary Sutherland, Talbot Lodge, Lifton.

GLAMORGAN COUNTY

Miss Muriel Edith Orsman, Typica, Efail Isaf, Pontypridd.
Sir John Pritchard, Kt., C.B.E., West House, Wick, nr. Cowbridge.
Ernest Reader, Goldsland, Wenvoe, nr. Cardiff.
William Collard Stone, 34 Hywel Crescent, Cadoxton, Barry.
James Glyndwr Williams, Tanybryn, The Parade, Porth.

KENT COUNTY

Leonard Edward Allsworth, 58 High Street, Newington.
Walter Charles Withcomb Brice, O.B.E., T.D., Highover, Hoo, nr. Rochester.
Miss Elizabeth Bleckley Clarke, Beneden School, nr. Cranbrook.
Edward Paul Crook, The Lodge, Brenley, Boughton.
Charles Frederick Albert Culling, 19 Thicket Road, Anerley, S.E.20
Francis John Daniels, Terlingham Manor Farm, Hawkinge.
Garth Leslie Doubleday, Rodmersham Court, nr. Sittingbourne.
Harold Leslie Hale, 41 Pinewood Avenue, Sidcup.
Cyril Albert Hall, 118 London Road, Northfleet.
Eric Albert Powell Hart, Heavitrees, Worlds End Lane, Chelsfield.
Frederick James Houghton Hill, 22 Station Road, Orpington.
Norton Ralph Lee, High Street, Ashford.
Lancelot Richard Stephen Monckton, Bell House, Bearsted.
Mrs. Adela Grace Newton, Deanfield, Harvel, Meopham.
Mrs. Elspeth Jean Niven, 167 Maidstone Road, Chatham.
Arthur Edward Rogers, Arthien, Pilgrim's Road, N. Halling.
Harold Ernesy Seccombe, Wealdhurst, Westwood Road, St. Peters, Broadstairs.
Cecil Lawrence Smith, 1 Hill Brow, Bromley.
John Frederick Spalding, The Grammar School, Church Road, Faversham.
Rear-Admiral Derrick Henry Hall-Thompson, R.N. (Retd.), Collaton House, North Road, Hythe.
Air-Commodore John Francis Titmas, C.B., C.B.E., R.A.F. (Retd.), 187 Anerley Road, Anerley, S.E.20.
Maxwell Joseph Hale Turner, 5 Paper Buildings, Temple, E.C.4.
Leslie William Stokes Upton, M.B.E., 114 Copse Avenue, West Wickham.
Ivor Thomas Harwood, 108 High Street, Chatham.
Richard Geoffrey Finn-Kelcey, 178 Faversham Road, Kennington, Ashford.
Paul Thomas Rogers, 15 Brasenose Road, Gillingham

BUS PASSES: ANOTHER STEP

We are indebted to a correspondent who points out that our Note of the Week at p. 515 *ante*, about Bus Travel for Councillors, might be misleading to some readers. We were there concerned with s. 1 of the Public Service Vehicles (Travel Concessions) Act, 1955, which in the proviso subs. (2) (*f*) legislates by reference to the Local Government Act, 1948, and we admit that, when we said that " every councillor's travelling expenses might be paid from public funds " under the Act of 1948, this could be understood as meaning that by virtue of this Act a local authority had power to reimburse its members for all journeys made on approved duty—as also when we suggested that councillors should pay their fares like other people and reclaim, instead of being given passes for free travel. Seeing that no universal power of paying existed under the Act of 1948, we did not intend to suggest that this could be done under the Act of 1955, and it had not occurred to us that we might be understood as suggesting this. Taking the Act of 1948 first by itself, a town councillor or urban district councillor can not have his travelling expenses paid for performing an approved duty within his borough or district. (The same applies to parish councillors, but they do not come into the present matter, nor do the members of other bodies to which the section applies, who cannot be paid travelling expenses for approved duty done within three miles of the member's residence.) Approved duty includes several things, one being attendance at council meetings. It may be assumed that council meetings will be held within the borough or district, and that payment " in respect of " attendance includes the cost of getting to the meeting. Whether the Act of 1948 allows payment of the fare for so much of a journey as is " outside the borough," when a councillor lives outside, seems uncertain. This question could be relevent to travel on municipal vehicles which run across the boundary.

The interesting question arises, of the form to be taken by " travel concessions " upon municipal buses, for councillors engaged upon approved duty, in a borough or district where those concessions are validated by s. 1 of the Act of 1955. " Travel concessions " is the sort of woolly phrase that commonly finds its way into business correspondence, and thence escapes into a legal document, to annoy the courts which sooner or later are called upon to decide its meaning. Under the Act of 1955 the benefits to be given to a blind man, a schoolboy, and a town councillor, may be unequal in value, and inasmuch as it may be convenient to adopt different modes of conferring benefit there may have been some drafting advantage in giving all the benefits the vague name of " concession." The one certainty about the word, conjoined to " travel," is that some travellers are to be let off some part, at least, of what other people pay. This could be done in different ways. Boys and girls wearing their school caps could be given a fourpenny ride on payment of a penny; a traveller who is blind, or walking on crutches, or one who produces a book of pension warrants, could be allowed to travel without paying anything; a person could be repaid his fares or a proportion of his fares (say) at weekly intervals, on production of the tickets for journeys he has taken, or could be supplied in advance with a season ticket, or even with a bundle of ordinary tickets, issued to him at less than their face value. Obviously, some such methods would be unpractical and some of them would invite fraud; the point we are making is that the word " concession " can mean almost anything, and that the idea of issuing a " pass " is not essential. For unidentifiable persons such as old age pensioners it may be the only method that would work; for a small number of persons such as councillors other methods could be found. A councillor is already entitled to pay out money and claim a refund when (for example) he goes to another town on approved duty, by rail or by a public service vehicle not belonging to his council. We see no inherent difficulty about his doing so if the vehicle by which he goes to that other town is one belonging to his own council; similarly, we do not see why he should not do the same when using his own council's vehicle for a journey for which he could not use it without charge, but for the Act of 1955. The initial payment he would have to make would be only a few pence; he would be relieved of the temptation to travel improperly upon the council's transport system without paying, and the council would be safeguarded against the temptation to avoid " embarrassment " to individual councillors by transgressing the proviso to s. 1 (2) (*f*) of the Act of 1955.

In contrast with the phrase " travel concessions " in that section (originating in a private member's Bill) is the explicit enactment in s. 113 (1) of the Local Government Act, 1948, which was a Government measure, prepared by Parliamentary Counsel. Here, a councillor (*inter alios*) becomes " entitled to receive payments . . . by way of travelling allowance . . . where expenditure on travelling is necessarily incurred by him," for the purposes laid down in the Act. We have called this an explicit enactment; on the face of it, it seems to contemplate that there shall be a payment of money to the councillor after he has himself paid money out. But we doubt whether it must be read quite so restrictively—whether (that is) the local authority are debarred from letting the councillor have money to buy his ticket in advance of his doing so : the section does not say " where expenditure on travelling has been necessarily incurred by him," and the verb " is incurred " could, according to common statutory usage, relate to expenditure still to be incurred. We are, at any rate, inclined to think that a local authority under the Act of 1948 (ignoring for the moment the Act of 1955) can supply a councillor with a return ticket to London, when he goes there on approved duty, instead of making him buy his own ticket and reclaim. If so, they could presumably buy him a season ticket on a local transport undertaking, not their own —with the restriction, obvious upon s. 113 of the Act of 1948, that the ticket must not be available (or at any rate cannot lawfully be used) within the borough or district. If we are right so far, they could equally (we think) have supplied him with a pass to be used on their own vehicles—subject (as we might for the sake of clarity have said at p. 515, *ante*) to the same restriction, derived from s. 113 (1) of the Act of 1948. What happened between 1948 and 1955 seems to have been that some local authorities which owned the local transport system regarded themselves (not unnaturally) as entitled to issue such passes without regard to the statutory restriction in the Act of 1948. In fact, such passes had not been unknown before and quite apart from the Act of 1948; before 1930, while local authorities were still the licensing authorities for public service vehicles, passes for councillors were found to be issued not merely on municipal vehicles but on company-owned vehicles, and, wher the new licensing system incidentally put an end (we believe) to such issues on company-owned vehicles, the passes for councillors on municipal vehicles managed, in some areas at any rate, to continue without being challenged. (This is a different story from that of what was done under the Act of 1948, but the older practice may have reinforced the newer, by causing the possibility of challenge to be overlooked.) For whatever reason, then, such passes were issued between 1948 and 1955, and—so far as they were in operation in 1955—are now rendered lawful, with the proviso that they can be held only for the purpose of approved duty as defined by the Act of 1948. But this is not to say they are expedient, even when confined to approved duty.

To allow a schoolboy or a blind man, a cripple or an obvious septuagenarian, to travel free or at a reduced fare, on production of a badge or pass, is not likely to produce ill feeling. To allow an ordinary healthy adult to do the same may easily give rise to dissatisfaction among his fellow passengers, of whom some are probably suffering already from the delusion, fostered by gossip and general envy, that all councillors are "on the make." We still think it would be wiser, apart from any danger of the misuse of a pass, to let the councillor pay his fare and reclaim, even on vehicles belonging to his council, and even when his journey is one for which the vehicle can be used by him upon "concession".

The limiting words in the Act of 1955, which lay at the root of the Doncaster matter referred to at p. 515, *ante*, relate to the nature of the duty to be performed, *i.e.*, to the purpose of the journey, and not to the place in which the councillor performs so much of that duty as consists of travel. Accordingly, if the council's bus was in fact used before 1955 to bring the councillor to the town hall on approved duty this use is apparently now validated, even within the borough or district. In other words, although the Act of 1955 does not enlarge the purposes for which the councillor can have his travelling expenses paid, it does enlarge (or may enlarge when it applies) the area within which he can make the journeys for which he claims a concession—if (we repeat) the municipal transport service had been so used between 1948 and 1955.

This brings us, then, to the point we had reached at p. 516, *ante*, where we quoted the remarks said to have been made at Doncaster, in attempted justification of the issue of passes going beyond approved duty. An episode has since occurred which, becoming public because of a personal issue that arose, brought home the way in which embarrassment was expected to occur; although, as it happened, it arose with the newer form of pass, not with the older form which had been expected to produce embarrassment.

At p. 515, *ante*, we conceded that it might be "embarrassing" to councillors to be supplied with passes expressed to be available for journeys made on council business and not otherwise. The episode now reported shows the sort of embarrassment, which led town council of Doncaster to introduce passes in the new form. A councillor used his pass at 7 *a.m.* and the conductor (a young woman) queried it. It may still be true (as Jess Oakroyd remarks in *The Good Companions*) that in the West Riding the day is half over by 10.30 *a.m.*, but even there a bus conductor might reasonably think that 7 o'clock was on the early side for councillors to be travelling on council business. This conductor had not, apparently, been told of the changed wording on the passes, and not unreasonably assumed the pass shown her to be still of limited scope. She was, according to the newspaper, called before the chairman of the transport committee, who showed her his own pass in the new form, and she was "advised" to write an apology to the councillor whose journey she had queried.

We do not feel happy about this. A bus conductor's duty includes the prevention of improper use of passes. The conductor would hardly examine closely the printed wording of a pass, while she was busy taking fares, and she was, if she did not know of the change of practice, justified *prima facie* in challenging the councillor who produced the pass, so why "advise" her to apologize in writing ? (There may, no doubt, have been some further reason for apology, such as unnecessary brusqueness on her part. All that can be said is that nothing of the sort occurs in the story printed in a reliable newspaper.) The local branch of the Transport and General Workers' Union is said to have written to the council's transport manager, asking for an interpretation of the position, in the interest of the platform crews.

It would not be surprising if opponents of the majority party on the council also took the matter up, by way of proceedings in the High Court. So far as can be seen upon the information sent to us, such proceedings might be held to be well founded, thus indirectly vindicating the woman conductor's acumen.

MISCELLANEOUS INFORMATION

ISLE OF WIGHT R.D.C. ACCOUNTS, 1955–56

The accounts presented by Mr. C. A. Miller, treasurer of the council, show that in this area of 58,000 acres with a population of 18,000, a penny rate produces £502. Rateable value (£126,000 at April 1, 1955) has continued its upward trend and would have shown a greater increase but for the necessity of making a large refund, having retrospective effect for some years, to the Gas Board.

Rates levied for the year totalled 24*s.* 5*d.* all but 4*s.* of which was in respect of county expenditure. The treasurer points out that before charging to revenue the cost of land bought by the council at Freshwater Bay there was a surplus for the year on the General Fund of £499. Incidentally, sea defence works at Freshwater Bay cost £1,500 of which £480 was contributed by the county council.

The rural council received capitation grant from the county council of £9,600: this amount would probably be forfeited if the proposal to pay equalization grant direct to district councils came to fruition.

There are 650 dwellings covered by the Housing Revenue Account of which 530 are houses, bungalows or flats erected after 1945. The average weekly rent was 17*s.* the highest actual standard weekly rent being 23*s.* for a four bedroom house in Arreton; and rents in total provided £29,000 out of the housing revenue account income of £45,000, the balance of £16,000 being met as to 75 *per cent.* by exchequer subsidy and as to 25 *per cent.* by rate subsidy. Housing thus cost a 6*d.* rate during the year but Mr. Miller states that in view of the council's new policy this charge will not arise in future.

The Housing Repairs Fund closing balance of £6,300 was equal to £9 15*s.* per dwelling as against £11 5*s.* a year previously.

Net loan debt at March 31 totalled £1,317,000, of which £892,000 was in respect of council housing and £286,000 for advances for house purchase. The revenue expenditure and income in respect of advances showed a surplus of £1,600 on the year's working.

The council make an allowance of £50 to the chairman.

At the close of the year rates owing totalled £1,400, an increase of £200 as compared with the previous year. By comparison rents owing by housing tenants amounted to £11, an increase of £2 over 1954–55.

COUNTY BOROUGH OF DERBY: CHIEF CONSTABLE'S REPORT FOR 1955

The chief constable's view is that it is doubtful if the introduction of the 44-hour week will attract additional suitable recruits, and he does not seem very hopeful that the pay increases will do so. He states that "the fact of the matter is that men joining the force must have a real interest in the police service as a career, to be prepared to endure the arduous duties they are called upon to perform, particularly as street patrol constables." This is undoubtedly true, but since many policemen are married and have family responsibilities the conditions of service and the pay must affect men's minds in considering whether to join, or to remain in, the force.

The force made a net gain of two in its numbers during the year and finished with an actual strength of 207 and an authorized establishment of 238. This latter figure includes the addition of 18 which was authorized to compensate for the introduction of the 44-hour week. The report notes that three members of the force are still in urgent need of houses and regrets the curtailment of the housing programme, because housing plays a big part in recruiting.

The crime figures show that 1,331 crimes were investigated during 1955, 116 more than in 1954. The increase is accounted for by what is called "the amazingly large number of offences committed by servants and receivers of stolen property." These two classes of offences showed an increase of 125 over 1954. The detection rate was high, 69·57 *per cent.*, so that 926 of the 1,331 offences were detected. For

breaking offences alone the rate was 65·21 *per cent.* This is a big increase on the 1954 rate, which was only 48·83 *per cent.*, but it is pointed out that the smaller number of such offences (138 instead of 254) allowed the C.I.D. officers to devote more time to each individual case with a resultant increase in the detection rate. Thirty-one *per cent.* of all detected breaking offences were committed by juveniles, although juveniles were responsible for only 19 *per cent.* of the total of detected crimes.

The increase in the number of road accidents continues to cause anxiety and in this report, as in so many others, is expressed the view that although road and lighting improvements can have some effect the chief causes of accidents are still carelessness and thoughtlessness on the part of road users. The increase in the number of vehicles on the road only emphasizes the increasing need for still greater care and consideration by everyone. This increase in numbers is really quite alarming. In 1946, the number licensed in Derby was 6,938. In 1955 it was 16,167 of which increase 1,483 occurred during 1955.

This leads us naturally to the consideration of parking and garaging. Where are all these extra vehicles to be accommodated ? On this point the chief constable has decided views, and he states that he is very anxious that his views and recommendations should be put into print. In the first place he considers that ground level parking cannot solve the problem, because the parks would have to be too remote from the congested parts of the borough. He advocates, therefore, the tiered type of garage with its ability to accommodate a great many vehicles in proportion to the ground space occupied. He recognizes, however, that such garages are not likely to be a paying commercial proposition because of their high capital cost. He suggests that municipal authorities wishing to attract to their towns those who are willing to spend money in them may compete amongst themselves in the provision of suitable parking facilities and he sees no reason why grants should not be obtained from the Ministry of Transport for the erection of tiered or other suitable types of car park.

At a time when economy is so essential such a proposal is unlikely to have a very favourable reception, but the fact remains that the car parking problem is a national one and that the obstruction and delays caused by vehicles parked in unsuitable places must lead to a great waste of time and money. It will be interesting to see whether the ideas put forward in this report are ever adopted.

ROAD CASUALTIES—JUNE AND JULY, 1956

Fewer people were killed or injured on the roads in Great Britain last month than in July, 1955. Provisional figures, announced by the Ministry of Transport and Civil Aviation on August 29, show that casualties in July this year totalled 26,165, a decrease of 1,143. There were 450 deaths, a decrease of seven, and 5,853 cases of serious injury, a decrease of 342. The number of slightly injured fell by 794 to 19,962.

The decrease in casualties generally is attributed mainly to bad weather which probably reduced the volume of traffic on the roads. There was also a slight decrease in June, when the total of 23,945 was 352 less than in June, 1955. The total was made up as follows:—

Killed, 447 (—8); seriously injured, 5,175 (—161) and slightly injured, 18,323 (—183).

Compared with June, 1955, the number of pedal cyclists killed fell from 87 to 47, a decrease of 46 *per cent.*, but fatalities among pedestrians increased from 136 to 170, or 25 *per cent.*

An analysis of over 100,000 accidents in the first six months of this year shows that among the most common reported faults were these:

Drivers
Turning right carelessly 4,544 accidents
Motor Cyclists
Going too fast 1,374 accidents
Pedal Cyclists
Turning right carelessly 2,301 accidents

The provisional total for all road casualties in Great Britain in the seven months, January to July, was 149,141. This is 6,780 more than in the same period of 1955.

CARE OF THE AGED IN SCOTLAND

Similar problems as to the care of the aged arise in Scotland as in England and Wales. It is noted, for instance, in the last annual report of the Department of Health for Scotland that the department has regularly stressed the need for continuous co-operation between the various public authorities and voluntary bodies working for the welfare of the aged. The North Eastern Regional Hospital Board convened a conference on this theme which lead to the formation of a working party to survey the problems relating to the care of the aged and to make recommendations on the various types of provision needed. In Edinburgh, the regional hospital board took part with the executive council and the public health department of the corporation in a joint study of the problems arising in the domiciliary, hospital and hostel care of the aged and chronic sick. The study involved keeping a detailed record over a period of weeks for each patient coming into care; the board's particular concern was in analysing the records to form an assessment of hospital needs. Since the end of the year the report of the Edinburgh survey has been published. Well over 60 *per cent.* of the persons seen as a result of the inquiry had no special or medical needs. Of those who required some social help 25 *per cent.* required re-housing. The inquiry also showed that there was a major need for long-stay hostels and homes for elderly persons with some chronic ailments.

Turning to old people's homes, emphasis is laid in the report on the importance of outside contacts if the residents are to feel that they are still welcomed members of the community; particularly through inviting voluntary bodies such as church and youth organizations or local branches of national organizations to visit the home. The practice of local authorities as regards visiting by members of the welfare committees varies and it is suggested that periodical visits by members, if of an informal character, would be welcomed by the residents. The variety of voluntary services and other interests which a home attract is well illustrated by one of the homes in a large burgh ; a hairdresser gives her services free of charge to the women residents; a group of voluntary workers help with the various sewing and mending tasks; and outings are provided by voluntary bodies.

PLYMOUTH WEIGHTS AND MEASURES DEPARTMENT

Mr. R. Billings, chief inspector of weights and measures for the city of Plymouth, in making his first report, which covers the year ended March 31, 1956, refers to the need for amendment and consolidation of the law, adding that with out-of-date laws with which inspectors have to make do it is necessary to use tact, discretion and persuasion in all the contacts made concerning local trade and dealings. Retail distribution, says the report, is at the moment in a state of radical change. Self-service and modern mobile shops are presenting further problems to the inspector of weights and measures. New marketing techniques, especially in the sphere of pre-packed food and refrigeration, make it essential for the inspector of weights and measures to acquire knowledge of such matters.

Mr. Billings is uneasy about the way some traders make use of self-indicating counter machines in shops. He writes: " Complaints were received as to improper operation due to excessive vibration of the weight indicators, which can be used to defraud customers. There was some evidence to this effect and also instances revealed where slight amounts of overcharge in price were made in the sale of articles such as tomatoes, apples and bananas. Our inspectors are now constantly on the watch for incidents of this sort, but it is somewhat difficult to detect due to price-computing charts only being visible to the vendor."

The position with regard to the sale of coal seems to be satisfactory. This is attributed largely to the attention which is paid by the inspectors to the depots, wharves, etc., whence the coal is despatched for individual delivery. Mr. Billings comments: " It is pleasing to report that the sale of coal in this city is nothing like the problem which appears to exist in other provincial towns where the majority of instances requiring legal proceedings concern the retail sale of coal."

The exceptionally dry weather during 1955 caused problems in the sale of loaves of bread and, although in several cases advice as to short weight was given to bakers in the city, it was necessary to institute legal proceedings in one instance.

Evidently inspectors of weights and measures may exercise considerable influence in relation to the types of machine used in trade, as the following example under the heading of verification shows. " In one case a machine approved by the Board of Trade under the Weights and Measures Act of 1904, was found to have errors more excessive than those allowed. Representatives of the manufacturer visited the office with models of this type, and the weight variations found were such that doubts were raised as to the general suitability of the machine. It seems likely that the model will not be produced again for use in retail trading."

The report states that the Plymouth city council, as the licensing authority, is concerned with a greater quantity of petroleum products than any other local authority in the United Kingdom. Continuous attention is given to questions of safe storage, so as to prevent accidents which might, the report suggests, become national tragedies. An instrument known as an " Explosimeter " for measuring the percentage concentration of petroleum spirit vapour in a given volume of air, from which it may be ascertained whether the amount falls within the explosive limits for the vapour, was purchased in June, 1955. This device has proved very useful on several occasions where leakages of spirit have been suspected, for it gives a warning as to what precautions are required to avoid fire and/or explosion.

As to Shops Act administration the principle difficulty seems to be that of Sunday trading. The provisions of the law, says the report,

are now such that enforcement is trying, and comprehension of what may be legally sold on Sunday most difficult. The inspectors are seeking co-operation and understanding between all traders, the aim being that no unfair trading shall take place so that no one shall be the worse off.

WEST HAM JUVENILE COURT

The opening paragraph in the report of Mr. Roy C. Boardman, chairman of the West Ham juvenile court, strikes a serious note. "In 1953, when there was quite a spectacular drop in the number of children appearing before the West Ham juvenile court, we felt that the rising tide of juvenile delinquency had turned at last, as the war receded into the background. Unfortunately, it appears that we were unduly optimistic because after a small rise in 1954, the 1955 figures show an increase of about one third on 1954, and of nearly one half on 1953. And at the time of writing, the figures for the first quarter of 1956 show an appreciable increase over 1955." Nevertheless, he concludes on a more optimistic note and pays tribute to parents, schools, clubs, etc., and their efforts to keep the young out of trouble.

As to the cause of the increase in offences by juveniles, the report notes that it has coincided with the rise in monetary inflation, in the country, and that it has been noticed in the past that times of "easy money" coincide with an increase in crime. We agree with Mr. Boardman that it will be interesting to see if, as inflation in the country comes under control, delinquency will also diminish.

Fourteen years is the age at which the greatest number of offences have been committed. The report suggests that the reason for this is that a certain type of boy, often backward educationally, becomes restive during his last year at school as he looks forward to starting work. He becomes resentful of authority, both at home and at school, and breaks out into delinquency.

MAGISTERIAL LAW IN PRACTICE

Evening Standard. August 30, 1956

WOMAN IS CLEARED BY POLICE

She is awarded £5 5s. costs—"word of cadet was unreliable"

A charge against a cleaner at a police section house of stealing articles belonging to a police cadet was withdrawn at Old Street today. The woman—Mrs. Gladys Rayner, 58, of Ashlin Road, Stratford—was awarded £5 5s. costs,

The magistrate, Mr. Leo Gradwell, ordered the costs to be paid out of county funds.

Miss A. W. Knight, for the police, told the magistrate: "The only evidence against Mrs. Rayner was that of a junior cadet, a lad of nearly 17. A few days after this charge was preferred, it was established that the word of this boy could not be relied upon."

Excellent character

Mrs. Rayner had been employed at Ede House, Mare Street, Hackney. She was said to have borne an excellent character.

The articles listed in the charge were a fountain pen, a pencil, a wrist watch, and a handkerchief.

Mr. J. C. L. Sharman, for Mrs. Rayner, suggested that the prosecution should pay costs. The magistrate said it was a case in which the police could not be criticized. They had received a statement and had had to take action on it.

He would give Mrs. Rayner costs against the county.

The Costs in Criminal Cases Act, 1952, now regulates the powers of different courts to award costs in criminal cases, both out of local funds and as between parties.

Section 5 deals with costs awarded out of local funds by magistrates' courts, either when dealing summarily with an indictable offence or inquiring into any offence as examining justices.

Subsection (1) of that section gives power in such cases to order payment out of local funds of the costs of the prosecution.

Subsection (2) (under which the learned magistrate sitting at Old Street was acting in this case) deals with the costs of the defence, and reads as follows: "A magistrates' court dealing summarily with an indictable offence, and dismissing the information, or inquiring into any offence as examining justices and determining not to commit the accused for trial, may, subject to the provisions of this section, order the payment out of local funds of the costs of the defence."

Subsections (3) and (4) enable orders to be made for payment of the expenses of witnesses (whether for the prosecution or the defence) out of local funds in any event. The amounts payable to witnesses are regulated by the Witnesses Allowances Regulations, 1955.

REVIEWS

Clarke Hall and Morrison. Children and Young Persons. Fifth Edition. By A. C. L. Morrison and L. G. Banwell. London: Butterworth & Co. (Publishers) Ltd. Price 90s. net.

A generation ago the first edition of this work appeared, with a preface in which the present senior editor quoted the words of s. 44 (1) of the Children and Young Persons Act, 1933: "Every court in dealing with a child or young person who is brought before it, either as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the child or young person." That edition came soon after the death of Sir William Clarke Hall, and was largely based on work that he had done. The text just quoted enshrined a principle upon which Sir William had worked as a magistrate, and which he had emphasized in various publications; it is now accepted as fundamental in all courts, even though it is recognized that the principle cannot override all other interests. Parents have still some rights, and so have the public as a body: rights of the individual child or young person are not paramount. This said, it is fair to read the Children and Young Persons Act, 1933, which consolidated earlier legislation, as an attempt by Parliament to ensure above all things the welfare of those young people who have to be brought before the courts. There have been later Acts, notably those dealing with adoption (mostly consolidated in the Adoption Act, 1950), and this central principle of the welfare of the child concerned is recognized throughout. There is also the Children Act, 1948, concerned primarily with children deprived by circumstances of a normal home life; this Act set up the present organization of children's departments of the major local authorities, which perform some new functions, and some functions which were regarded as part of public assistance before this was abolished.

The plan of the present work is to annotate these and related statutes, section by section, with an introductory note to each. Amongst the related statutes which are thus dealt with, may be mentioned portions of the Criminal Justice Act, 1948, and the Magistrates' Courts Act, 1952, and substantial portions of the Education Acts, 1944 to 1948. There are also a large number of statutory instruments, official circulars, and other subordinate legislative matter. The work is thus a complete account of the legislation relating to children and young persons; constant reference to it in our own Practical Points will show the daily reliance which is placed upon it. It begins with a useful reminder that magistrates are exercising a jurisdiction limited by statute, and must not go beyond it, and ends appropriately with a mention of special arrangements for dealing with appeals from juvenile courts.

The work is arranged in seven main divisions, of which the first is general, the others proceeding to specific topics of child care, child life protection, adoption, guardianship and marriage, legitimacy, and family allowances. Within each division the relevant statutes are set out and annotated; these being divided according to subject. The work is therefore something more than a mere annotated version of the statutes. We mean that an Act (such as the Children Act, 1948), will be found in more than one division of the book, according to its subject matter, and the book can therefore be regarded as a treatise or series of treatises on the different topics indicated by the titles of its main divisions. We have spoken already of the use made of *Clarke Hall and Morrison* for a generation past, for our own purposes. We have no doubt that it is equally the regular stand-by of lawyers and administrators, concerned with children and young persons from the point of view of child welfare, juvenile delinquency, and the other aspects from which it is necessary to regard the child in his relation to the law. Everything in the present edition is admirably clear, and the arrangement adopted by the joint editors (one of whom has been and the other is Chief Clerk at Bow Street) is essentially practical.

The cost of £4 10*s.* is more than the editors or publishers would have desired, but is an unavoidable consequence of the rising cost of printing and production, since the fourth edition appeared in 1951.

The interval of five years since that edition has produced new statute law and new statutory instruments, with several important decisions of the High Court. It was indeed found necessary to bring out two supplements in that interval. The present, new, edition brings the law up to the end of April, 1956, with a mention of *R.* v. *Campbell* [1956] 2 All E.R. 272, which was decided while the work was in the press. This deals with the evidence of children and the need for corroboration, according as evidence is sworn or not sworn.

In a sphere of law which is susceptible to so much pressure from public opinion, not always well informed, it is unsafe to prophesy what developments may come, either from Parliament or in the shape of decisions and subordinate legislation. It is however certain that for some years to come the present edition of this standard work, which is No. 8 in *Butterworth's Modern Text-books*, will be an important stand-by for everybody concerned with children and young persons in relation to the law and to the duties of public authorities.

The Law List. 1956 Edition. London: Stevens and Sons Ltd. Price 30s. net.

This, the latest edition of a familiar volume, continues its well-established course, with its almost proverbial accuracy. As a legal directory, the *Law List* reigns supreme, or at least is unsurpassed—yet we confess we are disappointed that a curious omission to which we drew attention when reviewing an earlier edition has not been rectified. Clerks of county councils and town clerks are included—yet clerks of urban and rural councils are not. This, however, is a relatively minor point which does not in any serious sense detract from the invaluable nature of this annual publication (the lists of which are, of course, fully revised and brought up to date).

A Parliamentary Dictionary. By L. A. Abraham and S. C. Hawtrey. London: Butterworth and Co. (Publishers) Ltd. Price 21s. net.

Although this volume has the title of " Parliamentary Dictionary ", it could more properly be described as a reference book—for the definitions its contains of various aspects of parliamentary machinery and phraseology (both technical and colloquial) are fuller and go beyond the scope demanded of a dictionary. Mr. Abraham is (in addition to being a member of the bar) Principal Clerk of Committees, House of Commons, and Mr. Hawtrey is a senior clerk in the Journal Office—the book, therefore, speaks with considerable authority. In addition, it seems remarkably comprehensive, and we imagine that it will prove in practice of the utmost value both to local authorities promoting their own Bills in Parliament, and to serious students of parliamentary procedure and government everywhere. Time alone can show whether it will prove a worthy complementary volume to *May's Parliamentary Practice*: we think it will. One further thing: it is priced at a guinea, which, for a work of 224 pages, well printed and bound, and on good quality paper, is exceptionally good value for these days.

Reserved Judgment. By His Honour Judge Tudor Rees. London: Frederick Muller Ltd. Price 21s. net.

Judge Tudor Rees wrote this book of " reflections and recollections " shortly before his death earlier this year. His reminiscences concerning what was a very full life: as a solicitor, member of the bar, member of Parliament, county court Judge, divorce commissioner and chairman of quarter sessions, not only make fascinating reading, but also provide a valuable insight into the personality of a well-loved Judge. Although published posthumously, his warm humanity breathes through every page of an entertaining and interesting book.

A History of English Law. Sir William Holdsworth. Seventh Edition. By A. L. Goodhart and H. G. Hanbury. London: Methuen & Co., Ltd. Price 45s. net.

This is Volume I of a new edition of Sir William Holdsworth's famous work, which is to appear in 14 volumes. It has been provided with an introductory essay by Professor S. B. Chrimes of Cardiff, which covers recent additions to the knowledge of the portion of English history covered by the volume. Apart from Professor Chrimes's essay, this part of the work goes back to the origins of English law. It discusses the decline of the old local courts, and the general system of common law jurisdiction, with chapters on the House of Lords and the Privy Council; the Chancellor's court, and courts of special jurisdiction, and concludes with a chapter on the reconstruction of the judicial system after Bentham. This volume of the work may be regarded, according to the learned author's original plan, as being largely general, because much detail, and the consideration of certain subjects of jurisdiction, have been reserved for volume II. Nevertheless, the information given here is so full, and so fully documented, that the volume is in itself a complete account of the topics which it covers. Sir William Holdsworth's history took a long time to complete, but the whole has now been long enough before the public to have established itself as a standard work. As such it will be already known to all our older readers; whether it is desired to follow up seriously some topic such as the University Courts, or to look for innumerable items of interesting information about English history, they will be glad to go back to it. Younger readers may not yet have come across earlier editions of the work, except perhaps upon a library shelf. They, and the wider non-legal public, can equally be advised to obtain this edition if they can afford to buy it, failing which they should look out for it in some well-furnished library. The price of 45*s.* net for the first volume is modest for these days, seeing that, exclusive of appendices, the book covers 650 pages. These are closely printed, and there is much more for the money than most publishers would have compressed into the same compass. This result is partly secured by the use of a page without much margin, and by paper and printing which, we are sorry to say, do not seem quite up to Messrs. Methuen's usual standard for a first-class publication. We have been sorry also to come across a certain number of mistakes; some may be misprints, and there is some obvious carelessness in proof reading. (*See*, for example, the second sentence on p. 243, which contains a duplicated line, followed by a piece of nonsense, where a line has apparently dropped out). We mention these in sure expectation that such faults will not be allowed to mar the later volumes. It would be ungracious to lay stress upon defects of printing (or other comparatively minor matters) occurring in so large a work, giving such a wealth of information. Nor is it valuable merely as a contribution to history. Many of the struggles of the past between the King's Bench and other courts have a bearing upon current controversies, and so are interesting and important to a wider range of people than those engaged in tutorial duties. For advanced students either in law or in history the work is still invaluable.

Challenge to Heritage. By Ruth Anderson Oakley. With a Foreword by Sir Henry Self, K.C.B., K.C.M.G., K.B.E. London: St. Catherine Press Ltd. Price 6s. net.

This book is outside the normal scope of our review columns, but we briefly notice it since we think that many social workers would derive some benefit from perusal of it. The book deals mainly with the author's ideas on the correct upbringing of children, and the importance of family life. Mr. Frank J. Powell, the metropolitan magistrate, in an appreciation, writes *inter alia* that the book " shows in plain, sensible and beautiful language how children may be so trained by their mothers that they will develop integrated personalities free from frustrations and inhibitions and become adults fit to play a worthy part in the life of the community."

NOTICES

Westminster Cathedral. A Votive Mass of the Holy Ghost (the Red Mass) will be celebrated on Monday, October 1, 1956 (the opening of the Michaelmas Law Term) at 11.30 *a.m.* Celebrant, the Rt. Reverend Monsignor Charles L. H. Duchemin. Counsel will robe in the Chapter Room at the Cathedral. The seats behind counsel will be reserved for solicitors. Those desirous of attending are requested to inform the Hon. Secretary, Society of our Lady of Good Counsel, 6, Maiden Lane, W.C.2, so that an adequate number of seats may be reserved.

A lecture entitled " The American Judiciary and Racial Desegregation " will be delivered by Professor A. E. Sutherland, A.B., LL.B., Professor of Law at Harvard University, at the London School of Economics and Political Science, Houghton Street, Aldwych, W.C.2, at 5 *p.m.* on Tuesday, November 27, 1956. The chair will be taken by Professor L. C. B. Gower, M.B.E., LL.M., Sir Ernest Cassel Professor of Commercial Law in the University of London. The lecture is addressed to students of the University and to others interested in the subject. The admission is free, without ticket.

A lecture on "Nullity of Marriage: Law and Jurisdiction" will be delivered by Mr. William Latey, M.B.E., Q.C., at King's College, Strand, W.C.2, at 5 *p.m.*, on Monday, October 29, 1956. The chair will be taken by the Rev. S. H. Evans, M.A., B.D., Dean of King's College. The lecture is addressed to students of the University and to others interested in the subject. The admission is free, without ticket.

BOOKS AND PAPERS RECEIVED

After the Verdict. By John Wainwright. Salvationist Publishing and Supplies, Ltd., Judd Street, King's Cross, W.C.1. Price 6*s.* cloth; 3*s.* 6*d.* paper.

Mersey River Board, Fifth Annual Report, 1955–56. Clerk of the Board, Warrington.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

VEHICLES (EXCISE) ACT, 1949

I refer to P.P. 5 on p. 495. It seems that you may not have been informed that some time in January this year the stipendiary magistrate of Wolverhampton dismissed a case brought under the above Act by the police on the ground that all the offences created by the Act were excise offences, which the police could not prosecute. The Ministry of Transport were consulted and were advised by the Treasury Solicitor that the decision was correct. Counsel also was consulted and gave a similar opinion. Members of my staff have always prosecuted offences under the above Act on behalf of the borough treasurer who is the local taxation officer, and since hearing of the decision in this case I have also taken over prosecution of cases arising under Road Vehicles (Registration and Licensing) Regulations, 1955, which as you are aware were made under the provisions of the above Act.

Yours faithfully,
L. W. HEELER,
Town Clerk.

Town Clerk's Office,
Municipal Offices,
Town Hall Square,
Grimsby.

[We are greatly obliged to the Town Clerk. Our answer at p. 495 was directed to a doubt said to arise upon *Oberst* v. *Coombs* (1955) 119 J.P.N. 179. That case was decided upon a different Act. We do not seem to have had a note of the decision now mentioned.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

Dear Sir,

In your Note of the Week at p. 356, entitled the Highway as a Garage, you refer to the problem of cars being left for days in the streets and wonder when action will be taken about them. In the last few months the police in this area have successfully prosecuted a large number of car owners at this court for causing unnecessary obstruction by leaving their cars in this way. They started taking action after the case of *Solomon* v. *Durbridge* (1956) 120 J.P. 231 was decided. When cars are parked for long periods an accumulation of dust and refuse takes place and the street cleaners are thus obstructed, apart from any obstruction to other vehicles.

Yours faithfully,
F. A. GREEN,
Chief Clerk.

West London
Magistrates' Court,
Southcombe Street, W.14.

[We are pleased to learn that something is being done. In many residential areas the police, if complaint is made, profess to be powerless, and so the nuisance to the public and to residents generally steadily increases.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

On return from my holiday and reading p. 524, *ante*, I see a reference to a case I took at Chester-le-Street on June 27 last.

Whilst I have not now got the papers in my possession and have returned them to the police on whose behalf I prosecuted I think it only fair to the clerk to the justices to tell you as a matter of interest that the provisions of s. 138 (7) of the Army Act, 1881, in s. 156 of the Army Act, 1955, and the circulars with regard thereto had not been overlooked, though at the time I could not have quoted the Act or section, but I am afraid these were not applicable in this case. Coyne was then serving a substantial sentence of detention and as you are probably aware during the period of detention a soldier forfeits his pay therefore there was no pay due to him from the army for that period, however there was an officer of his unit present in court but it appeared that Coynes service either expired or was terminated either at the commencement of, or during the period of his detention and his services would be no longer required after he left, therefore for that reason, if my recollection is correct (if not for that reason for reason of prior stoppage) it appeared at the hearing as far as Coyne was concerned, or the Army was concerned there would be no further pay due to him consequently there could be no question of recovering from his unit and this practice could not be adopted; and I think it only right I should point this out as otherwise the impression might be that the clerk to the justices had not realized the implication and in fact we both had.

Yours faithfully,
V. H. JACKSON.

St. Nicholas Court,
Market Place,
Durham.

[We are greatly obliged to our learned correspondent. Our comment was in no way intended as a criticism of the court or the clerk. It was merely to draw the attention of our readers to the special provisions made for the recovery of fines from soldiers.—*Ed., J.P. and L.G.R.*]

PERSONALIA

APPOINTMENTS

Mr. John Eryl Owen-Jones, LL.B., M.A., has been appointed clerk to Caernarvonshire county council, to succeed the late Mr. Gwilym T. Jones. Mr. Owen-Jones is 44, married, with two children. He was educated at the University College of Wales, Aberystwyth and Gonville and Caius College, Cambridge. Mr. Owen-Jones was admitted in November, 1938, after serving his articles with Messrs. Amphlett & Co., solicitors, London and Colwyn Bay. He was assistant solicitor with the same firm from November, 1938 until May, 1939, before taking up the same position with Chester city council. Mr. Owen-Jones was at Chester from May, 1939 until January, 1941. During the war he served in the R.A.F., being discharged with the rank of Squadron Leader. From March, 1946, until his present appointment, Mr. Owen-Jones was deputy clerk to Caernarvonshire county council. Mr. Owen-Jones is also deputy clerk of the peace for Caernarvonshire, deputy clerk to the standing joint committee, deputy clerk to the magistrates' courts committee and deputy secretary to the North Wales combined area probation committee.

Mr. K. J. Newell has been appointed deputy clerk to Crawley, Sussex, urban district council. He is at present assistant solicitor to the borough of Hemel Hempstead, Herts.

Mr. K. J. Eddey has been appointed to fill the vacancy of assistant solicitor in the town clerk's department of the borough of Bexley, Kent. Mr. Eddey has recently passed the final examination of the Law Society and hopes to be admitted as a solicitor next October. Mr. G. C. Grant, the former occupant of the post, has obtained an appointment in private practice with Messrs. Saw and Sons of Greenwich, London, S.E.10, and commenced duty with this firm on August 13, last.

RETIREMENTS

Sir James Millard Tucker, Q.C., chairman of the committees which reported on the taxation of trading profits, and on pensions, and vice-chairman of the Royal Commission on Taxation, has announced his retirement from practice at the bar, and is to devote himself to commercial interests. Sir James, who is 63, was knighted in 1955. He was called to the bar in 1920 and took silk in 1932.

Mr. J. Townend, clerk to Derwent, Yorks (East Riding), rural district council, is retiring on March 31, 1957. At the request of the council, Mr. Townend did not retire on reaching the age of 65 on December 7, 1949, but continued in office for a further seven years —a unique position. The Derwent rural district council was created in 1935 by the amalgamation of two rural districts, namely, the rural districts of Escrick and Riccall, Mr. Townend being clerk to the latter. He was appointed clerk in April, 1911, and has served 46 years as clerk. Mr. Townend's late father was the first clerk to be appointed to the Riccall rural district council, so it has been in the family of father and son since rural district councils were formed under the Local Government Act, 1894. Mr. Townend's father was also clerk to Selby, Yorks., rural district council from April, 1894, followed by Mr. Townend himself, who will be retiring from the position on March 31, 1957.

OBITUARY

Sir Bedford Lockwood Dorman, C.B.E., former deputy chairman of North Riding quarter sessions, has died at the age of 77. He was called to the bar by the Inner Temple in 1902.

BAD HATS

That apocryphal history-book, *1066 And All That*, which specializes in recording Memorable Things, warns its readers against confusing Napoleon with Nelson—" in spite of their hats being so alike." The adaptation of the book for the stage, in the 1930s, as a play with music, gave scope for illustrating the distinction between these two personages, emphasizing that Nelson always put on his hat " like *this* " (*i.e.*, pointing from back to front), while Napoleon wore his " like *that* " (*i.e.*, sideways across his head). Nobody who has read the book or seen the play is likely to fall into error on the subject.

Associations of this kind make a powerful impression upon the memory. The recent Case of the Historic Hats bids fair to take on the proportions of an International Incident. The Russian lady athlete, familiarized to the British public as " Nina " *tout court* (they would never get down to pronouncing her surname, anyway) has supplied a topic for front-page headlines and earned the gratitude of news-editors throughout the country. So far as we have been able to ascertain, cricket is not one of the games included in the curriculum of ladies' colleges in the Soviet Union—otherwise one might have been tempted to suspect that the whole misunderstanding arose from a too literal interpretation into the Russian language of the English expression " hat-trick " in its idiomatic sense.

Whatever be the true explanation, the alleged appropriation of hats, in large numbers, from an Oxford Street store without the formality of payment led to a summons; the summons was followed by the disappearance of the accused, and the disappearance by a warrant. The issue of the warrant has resulted in the withdrawal of the lady's compatriots from the Anglo-Russian Games and their premature return to their own country. Meanwhile, on both sides of the Iron Curtain, a war of words is in full swing. The wires have been busy between the Soviet Embassy and the Moscow Ministry of Foreign Affairs; *communiqués*, *démentis* and all the other apparatus of diplomacy have been called into play; the Foreign Office and the Home Office in London have been besieged by reporters, and speculation has been rife about possible action by the Law Officers of the Crown. It is all rather reminiscent (*mutatis mutandis*) of the fable that begins " For want of a nail the shoe was lost," and ends with battle and disaster. It is to be hoped that the blessed word " coexistence " may be prayed in aid, and that some *modus vivendi* may be established between the contending parties before the situation gets completely out of hand.

Repercussions are not confined to the international sphere. In several English cities the power of suggestion, emulation or a craving for notoriety has led to something like an epidemic. In the Sussex resort of Worthing an elderly woman has been placed on probation for taking from a store a coloured straw-hat, valued at 3*s*. According to the Brighton *Evening Argus*, the manager followed her into the street and asked her politely to come back to the shop and pay. " She handed him the hat without a word, and ran down the street, peeling off her coat as she went." Finally, adding insult to injury, she took refuge in " a rival store " a few doors away. Whether she had in mind some hazy idea of extra-territorial rights, and an intention of claiming political asylum, is not quite clear. At all events the pursuer (joined eventually by a policeman) boldly followed her inside, where an exciting game of hide-and-seek took place, between the serried racks of clothing, before capture was finally effected.

Another news-item, from the *Oxford Times*, recalls the sartorial distinction between Nelson and Napoleon. An observant constable, on duty in Cornmarket Street, noticed a man emerging from a cafe " wearing a trilby hat *on the back of his head*." Furthermore, it was obviously several sizes too small for him, and he was drawing attention to himself by " staggering and shouting." Eccentricities of this kind might have passed muster during term-time in a University City; but in the Vacation, when nearly all undergraduates have gone down, they were bound to occasion remark. Questions were asked concerning the relative magnitude, and the angle of incidence, between hat and head. The plausible answer that the hat belonged to a friend, and that he had put in on " for a bit of fun," failed to satisfy the representative of law and order. " Drunk and disorderly," said the bench, and imposed a fine of £2, or 14 days in default.

The beautiful City of Edinburgh has been *en fête*, and to the organizers of the brilliant Festival every music-lover will take off his hat. Not so those insensitive persons who (in Hamlet's words) "are capable of nothing but inexplicable dumb-shows and noise." One such was John Hay Campbell Barbour, who was caught on the roof of a building and subsequently pleaded guilty to breaking into the premises with intent to steal. Having been brought to the Central Police Office, for the purpose of being charged, Barbour (according to the *Liverpool Daily Post*) " made no attempt to take off his hat." This show of discourtesy was sternly reprobated by the officers in charge; but it was some time before the accused could be induced to uncover. When at last the hat was removed, there dropped out of it on to the floor a stick of gelignite and three fuse-detonators. Such a disclosure, one imagines, must have produced an eloquent silence. Every man, whatever his vocation, keeps *something* under his hat—a diplomatic secret, notes for an after-dinner speech, a disappearing rabbit, or just a swelled head. But the use of a hat as a receptacle for high explosives is something quite new in the sartorial line. A.L.P.

MAGISTERIAL MAXIMS, XXVI

A certain Legal Gentleman, being Appointed to the Ancient and Honourable, tho oft much Abused position of Clerk to Justices, after his First Week of Duty, decided that his Office was not being Run on those Up to Date Lines that he would Wish, and resolved, Privately, and without Consultation with those most Directly Concerned, that he would " Ginger things up " and have affairs dealt with according to his own Desires.

This, with Some Ruthlessness, he did, forgetting the adage which commences, " Fools Rush In " and terminates with a reference to the conduct of angels, and with some injustice to the Staff, who had given Long and Faithful service to his predecessor in Office, and whose Methods of Work, though Unspectacular, were quietly Efficient and entirely Adequate for the business to be Conducted.

This same Clerk, therefore, issued a Series of Orders and Instructions directing who should do What, Where, When, and How, with the not unexpected Result that in a few Short Weeks he had a set of Disgruntled Assistants, a quietly annoyed Government Auditor, and a Muttering Public, for those Members of the Public who have Regular Business at a Magistrates' Clerk's offices are quick to Note and Resent what they deem unwarranted Changes in Routine or Personnel.

Fortunately, his Staff were men of Perspicuity, and Loyal, to boot, and remembering that New Brooms sweep Clean, bore the yoke with Fortitude and Silence, but as time progressed gradually, and without Outward Sign, reverted to their Old and Tried methods of working, for they had chanced upon an old Book which quoted the maxim OMNIA INCONSULTI IMPETUS COEPTA INITIIS VALIDA SPATIO LANGUESCUNT, which, not being learned in the Latin tongue, they had far too freely translated as " Give the Horse his Head at the beginning, but above all things, see that he goes the way you wish him to."

Thus was Harmony unobtrusively, to the Satisfaction of All Concerned, restored for, as the Greeks doubtless said, though no written record remains of their having done so, " He who believes he rules, rules, whilst smiling bystanders continue as of yore, that Peace may be Triumphant." AESOP II.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Child born two months after divorce—Consent of former husband.*

In adoption proceedings for a child born after its mother's divorce, her former husband, Mr. X, has completed the usual form of consent, but has deleted the words in print "the father of the infant," and inserted in their place the words "former husband of the mother of the infant." In other words he has apparently denied paternity but given his consent for what it is worth.

I am now informed that it was the association between the mother, Mrs. X, and the putative father leading to the birth of the child that gave grounds for the divorce. The putative father has made no payments to Mrs. X, and there is no affiliation order in existence.

Would you please advise me whether, in your opinion, the form of consent given by Mr. X, is adequate without going into the question of the disputed paternity, or should evidence be obtained from either Mr. or Mrs. X, as to paternity in order to eliminate Mr. X as a respondent?

S.A.B.C.

Answer.

If the presumption of legitimacy is not rebutted by evidence the court will treat the infant as legitimate for the purpose of these proceedings. If Mr. X who is presumed to be the father is proved to have consented to the adoption, we think the court can act upon that consent in spite of the words repudiating paternity. The position is this: if he is the father, the requisite consent has been given, and if he is not this consent, though given, was unnecessary.

2.—Highway—*Roadside ditches—Surface sewers from housing estates.*

The county council at one time used to make out, cleanse and pipe in the roadside ditches in this area. Of late years they have reversed their policy and rarely, if ever, touch them with the result that water from the land no longer gets away and farm drainage ditches are ineffectual. Your opinion is sought on the duties of the landowner and highway authority respectively.

P. JOMADE.

Answer.

The query seems to suggest that the purpose of cleansing these ditches is to benefit the farm land rather than the highway. The owner of a ditch adjoining a highway is under a duty at common law to cleanse the ditch to such an extent as to prevent the ditch from becoming a nuisance or obstruction to the highway, but this is enforceable only by indictment; *see* Opinion of Law Officers at 29 J.P.N. 319; *A.-G.* v. *Waring* (1899) 63 J.P. 789. The highway authority may cleanse such a ditch under s. 67 of the Highway Act, 1835, but they may not pipe and fill in a ditch belonging to the adjoining owner without his consent: *Hanscombe* v. *Bedfordshire County Council* [1938] 3 All E.R. 647; 102 J.P. 433. They are not under a duty to cleanse an owner's ditches for the benefit of his land, and both cases show a general presumption that such ditches do belong to him.

3.—Highway—*Roadside ditches—Surface sewers from housing estates.*

The council when it buys land for housing purposes obtain with the land the right of surface water drainage on to adjoining properties as previously enjoyed. When the council build they discharge their roof and surface water drains into a convenient ditch generally on their own land. The flow of water may thus be increased in a particular ditch but has never been so excessive as to cause complaint. The estate road drains are connected thereto.

The county council when taking over the roads require an easement for the surface water drainage and this in turn requires the Minister's consent. If the estate road, when in a rural district, is automatically a county road on proper completion, is not the right of drainage—as existing when taken over—a fact and no easement necessary? This would save considerable work both locally and ministerially. Would the position be different if the assumption as to the road being automatically a county road is erroneous?

Your advice in particular and in general would be appreciated.

P. JOMADE II.

Answer.

The obtaining of a new easement by reason of the county council's taking over the highway is in our opinion unnecessary. The use of the surface water sewer for the purpose of highway drainage has been established before the road is taken over as a county road, and s. 29 (2) of the Local Government Act, 1929, and s. 21 (4) of the Public Health Act, 1936, apply. If a new sewer is laid by the local authority after the road becomes a county road, an agreement under s. 21 of the Public Health Act, 1936, will be necessary.

4.—Husband and Wife—*Maintenance Orders (Facilities for Enforcement) Act, 1920—Variation of order registered in Dominions.*

Section 1 of the Maintenance Orders (Facilities for Enforcement) Act, 1920, makes no provision for variation by a magistrates' court in England of a maintenance order made in the Dominions and registered in a court in this country. The case of *Pilcher* v. *Pilcher* [1955] 2 All E.R. 644; 119 J.P. 458 has confirmed that such an order cannot be varied here.

Is a magistrates' court, in your opinion, similarly restricted in varying an order made in England at the time when both parties were living here but which is now registered in one of the Dominions under s. 2 of the Act?

The power to vary mentioned in s. 3 (5) of the Act relates only to provisional orders made in this country and confirmed in the Dominions. Do you think, however, that "an application for a maintenance order" in s. 3 (1) could be held to include an application for variation of a maintenance order?

SOVA.

Answer.

This is a question upon which there is a divergence of opinion. Reference may be made to a question and answer at 118 J.P.N. 585.

It appears likely that the Dominion court cannot vary the registered order there, and that unless the English court can do so neither party can obtain a variation. If the defendant to the proceedings is in England and a summons can be served upon him, the party in the Dominions could apply to the English court through an English solicitor. If the party in the Dominions is the defendant an English summons cannot be served there, and unless a provisional variation can be made as suggested it appears that nothing can be done.

5.—Landlord and Tenant—*Improvements—Increase of rent.*

At 120 J.P.N. 527 the question was asked: "Will the owner be able to charge the tenant the maximum rent subsequent to the execution of the improvements?" and the answer given was: "Not unless he can charge it under the Rent Acts. The maximum is only a limit and is not a right."

It seems that this answer does not take into account s. 37 of the Housing Repairs and Rents Act, 1954, whereby the maximum rent fixed by the local authority becomes the standard rent for the purpose of the Rent Acts.

PORRIN.

Answer.

We agree, and ought perhaps to have made this clear, since the condition that he must be able to charge the maximum rent under the Rent Acts may be fulfilled under s. 37 of the Housing Repairs and Rents Act, 1954, which is not directed to be construed as part of those Acts.

6.—Larceny—*Accessory after the fact—Summary trial.*

A man has been charged before the magistrates' court here as an accessory after the fact to an offence of larceny. The case has been adjourned for 14 days, but I understand that the prosecuting solicitor will ask for summary trial. I am in doubt as to whether this offence is triable summarily by consent, or is triable only on indictment. It is not included in the first schedule to the Magistrates' Courts Act, 1952, which sets out the indictable offences by adults which may be dealt with summarily with the consent of the accused. The prosecuting solicitor takes the view that an accessory after the fact may be dealt with summarily, relying upon s. 7 of the Accessories and Abettors Act, 1861.

TOTTS.

Answer.

The argument based on s. 7 is not unreasonable, but in our opinion the accessory after the fact cannot be tried summarily. We think s. 7 refers to local jurisdiction and not to the question of indictment or summary trial (there was little summary jurisdiction over indictable offences in 1861). The ommission of any reference to accessories after the fact from the schedule of indictable offences triable summarily in both the Criminal Justice Act, 1925, and the Magistrates' Courts Act, 1925, and the Magistrates' Courts Act, 1952, seems to us to settle the point.

See P.P. at 119 J.P.N. 532.

7.—Licensing—*Consumption in unlicensed premises of intoxicating liquor bought in adjoining licensed premises—Unlicensed premises and licensed premises in same occupation.*

We refer to the answer to P.P. 10 at 120 J.P.N. 576 and would inform you that in accordance with your suggestion we have obtained from the Surveyor of Customs and Excise an explanation of his reasoning.

The grounds of the Excise objection to the practices mentioned in our original point are:

(*a*) that the practices amount to structural alterations to the premises giving increased facilities for drinking for which the consent of the justices must first be obtained, and

(*b*) that under the decision in *Pasquier* v. *Neale* (referred to on p. 1006–7 of the current edition of *Paterson*) the practices amount to selling intoxicating liquor in the cottage restaurant without a licence.

The licensee now wishes to resume *only* the practice of allowing customers who have already purchased intoxicating liquor in the licensed premises to take it with them into the adjoining restaurant and consume it there with their meals.

We shall be glad to have your correspondent's opinion on the grounds of the objection raised by the Excise in relation to these practices.

NAGPA AGAIN.

Answer.

Inasmuch as it seems not to be the intention to make any alteration to the licensed premises we do not think that an application to licensing justices under s. 134 of the Licensing Act, 1953, is appropriate. Undoubtedly, the practice gives increased facilities for drinking: but this is by way of enlargement of licensed business, not alterations to licensed premises.

Pasquier v. *Neale* (1902) 67 J.P. 49, was a decision in which the High Court upheld a metropolitan magistrate on the facts as found by him and lays down no new principle of law. If customers at the unlicensed restaurant *themselves* buy intoxicating liquor at licensed premises and carry it into the restaurant for consumption there with their meals, we do not think that any law is infringed.

8.—Licensing—*Special order of exemption—Whether dances and dinners held at licensed premises may be described as "special occasions."*

B is a small borough in which there is only one large hotel with a ballroom. Various functions, such as dances in aid of charities, annual dinners of various societies and clubs, and parties and dances for members of local bodies and firms are regularly held at the hotel, as also are dances organized by the hotel owners themselves. The licensee of the premises is in the habit of applying to the local magistrates' court under the provisions of s. 107 of the Licensing Act, 1953, for special orders of exemption from permitted hours in respect of a number of these functions.

Your opinion would be appreciated as to whether all or any of such functions can be described as "special occasions" within the meaning of the Act as, in the writer's opinion, they cannot be described as being of a public nature, which seems to be an essential ingredient of a "special occasion," *e.g.*, hunt balls, recognized local festivals.

Your attention is drawn to the dicta of Lord Coleridge, C.J., in the case of *Devine* v. *Keeling* (1886) 50 J.P. 551 and of Lord Goddard, C.J., in the case of *R.* v. *Cheltenham Justices, ex parte Martin Bros. (Wines and Spirits), Ltd.* (1955) 120 J.P. 88.

O. SILEX.

Answer.

It is common practice throughout the country for functions such as are described by our correspondent to be advanced as "special occasions" on which are based applications for special orders of exemption under s. 107 of the Licensing Act, 1953. The decision in *R.* v. *Cheltenham JJ., ex parte Martin Bros. (Wines and Spirits), Ltd., supra*, contains nothing, in our opinion, to upset this practice: on the contrary, the Lord Chief Justice distinguished "a general extension of shopping hours" from cases where "a special exemption would be desired to enable parties eating and drinking to continue beyond permitted hours." It is true that the latter phrase was identified with Christmas Day and New Year's Day; but in our opinion it has a more general application.

9.—Music, etc., Licence: Stage Play Licence—*Which type of licence authorizes performance of "variety turns."*

There is in this district a cinema which is licensed for cinematograph performances, also under s. 5 of the Theatres Act, 1848, and the Public Health Acts Amendment Act, 1890, for "public dancing, music and other entertainment of the like kind." The local authority has declined to renew the stage plays licence because of structural defects (risk of fire).

The following variety turns have been booked to appear at the cinema next week: a man who describes himself as a lightning hypnotist; a female mind-reader; a comedian and soloist; a harpist; a pianist. Do you consider whether any of these constitute a "stage play" within the meaning of the Act, *viz.*, "Every tragedy, comedy . . . or other entertainment of the stage"?

I am of the opinion that the music and dancing licence does not authorize the above performance.

NYWY.

Answer.

It accords with modern practice to regard "variety turns" of the type mentioned by our correspondent as falling outside the definition of "stage play" as this expression is defined in s. 23 of the Theatres Act, 1843, but to fall within the description "public dancing, singing, music, or other public entertainment of the like kind" for which a licence must be granted under s. 51 of the Public Health Acts Amendment Act, 1890.

As to the first of the "variety turns" mentioned by our correspondent, support is given to the view that it falls within the ambit of a licence under the Act of 1890 by the terms of s. 1 of the Hypnotism Act, 1952.

10.—Public Health Act, 1936—*Provision of sink for dwelling-house.*

In connexion with the provision of a supply of water inside the dwelling-house as required by s. 138 of the Public Health Act, 1936, the section states that the local authority should be satisfied that the occupied house has not, either in the house or within a reasonable distance thereof, a supply of wholesome water sufficient for the domestic purposes of the inmates. A house has a water tap at the rear of the outbuildings. The local authority would like the tap to be re-sited inside the premises in the scullery. This would be a distance in this particular case of 19 *ft.* It is apparently necessary to get the water supply inside the premises before requiring a sink to be supplied under s. 39 of the Public Health Act, 1936. Would a notice requiring the provision inside the house of a piped water supply and tap under s. 138 (1) be capable of being upheld on the grounds that the local authority are satisfied that the existing water supply is not within a reasonable distance of the house having regard to the particular circumstances involved?

ANWELL.

Answer.

The central question to be decided is whether a tap in the yard, some 20 *ft.* from the scullery door, is within a reasonable distance. Persons living comfortably in the mid-twentieth century are likely to say No. Against this, it can be pointed out that until the present generation very many country people had to draw water from a well; even now piped supplies are far from universal. Common standpipes in the street were also frequent in towns until the present generation. This is evidently rather poor property, and the tap is not much further from the house than the water closet shown on the plan sent with the query. We do not, therefore, feel that a positive opinion can be given either way. The most that can be said is that the question is one of discretion. The Minister, therefore, under s. 139 or the Divisional Court (if a case reached that Court) would be likely to uphold the council whichever way they decided, provided they addressed themselves to each individual case, and did not decide upon any predetermined policy.

11.—Road Traffic Acts—*Driving licence—False statement made in application form—Validity of licence—Effect on insurance policy.*

A man is charged with having unlawfully and knowingly made a certain false statement for the purpose of obtaining a grant of a driving licence, contrary to s. 112 (2) of the Road Traffic Act, 1930. He is further charged with driving a motor vehicle not being the holder of a licence, contrary to s. 4 of the Road Traffic Act, 1930. He is also charged with using a motor vehicle when there was not in force in relation to the user of the said vehicle such a policy of insurance or such a security in respect of third party risks as complied with the requirements of part 2 of the Road Traffic Act, 1930, contrary to s. 35 of the Road Traffic Act, 1930.

Assuming the first charge to be proved or admitted, and the driving licence to have been obtained as a result of a false statement, does it necessarily follow that the two other charges can be substantiated merely as the result of a conviction on the first charge?

The certificate of insurance contains the usual clause permitting the policy holder to drive . . . "Providing the person driving holds a licence to drive a vehicle or has held and is not disqualified from holding or obtaining such a licence." The driver has not been disqualified from holding or obtaining a licence at any time.

We should be glad of your opinion on:

1. Is not the driving licence a valid driving licence whether or not it has been obtained by a false statement?

2. Is the insurance cover affected in view of the existence of the licence?

JINX I.

Answer.

In s. 7 (4), Road Traffic Act, 1930, there is an express provision that a licence obtained by a person who is disqualified shall be of no effect. There is no corresponding provision relating to a licence obtained by virtue of an application which contains a false statement. We think, therefore, that the answers to the questions asked are:

1. Yes.

2. No.: *cp. Durrant* v. *Maclaren, The Times*, July 12, 1956.

12.—Road Traffic Acts—*Identifying the driver—Section* 113 (3), 1930 *Act—Request under s.* 113 (3) (*b*) *to a person after he has been served, under s.* 21, *with notice of intended prosecution.*

We should like to have your opinion on a case heard recently. We were acting on behalf of a man P who was charged with having on March 3, 1956 at B, driven a motor car at a speed which was dangerous to the public having regard to all the circumstances of the case, etc., contrary to s. 11 of the Road Traffic Act, 1930.

The facts briefly stated are that the prosecution alleged that an M.G. sports motor car was driven through the streets of B at noon on the day in question at a speed estimated by four witnesses to be in the region of 50 to 60 miles per hour. None of these witnesses were able to identify the driver, but a policeman who was a witness took the registration number of the car, and further inquiries were made. It was ascertained that the car belonged to the father of P, who lived in Yorkshire. All that the father was prepared to say was that the son had possession of the car on the day in question. P himself when he was interviewed stated that he had been driving the M.G. car on the day in question, but there was no evidence at all that he had driven it through the streets of B; in fact it might very well have been that someone else was driving it at that time.

On March 15, notice of intended prosecution was served personally upon P. It stated that notice was given that it was intended to prosecute him for dangerous driving, and/or careless driving on March 3, 1956, in High Street, B. Subsequently, however, it was found that the police had come to the conclusion that they still could not prove that P himself was driving that car through B, and they arranged for a local officer of the police to interview P, who was a serving soldier, in the presence of one of his superior officers.

The police officer produced a letter of authority from his chief constable to the effect that he was acting on his behalf, and he produced a book and read out to P and his superior officer, s. 113 (3) of the Road Traffic Act, 1930. P was not the owner of the vehicle so that the first part of that subsection does not apply. The second part of the subsection states that any other party, shall if required, etc., give any information which is in his power to give and which may lead to the identification of the driver, and, if he fails to do so, he shall be guilty of an offence. The maximum penalty for this offence is £50. P therefore then said that if he did not make a statement giving information as to who was driving through B on the particular morning, he would be guilty of an offence under this subsection. The police officer then asked him to make a written statement and wrote down a caution which P after some great hesitation, and with great reluctance, signed. The statement that was made afterwards was an admission that he drove the M.G. motor car through the streets of B at the material time. This was the only evidence that was available that P had driven the car through B at that time, and we objected to the statement being admitted in evidence because it was not given voluntarily. P found himself in a "cleft stick" as it were, because on the one hand if he did not give the information he was told he would be prosecuted under s. 113. If he did give the information he would be prosecuted for driving at a dangerous speed.

The magistrates decided that the statement was admissible and they gave their reason that P was obliged to give the information contained in his statement in any event by virtue of the provisions of s. 113.

Later P gave evidence and of course had to admit that he was driving the vehicle in question and in due course he was convicted and punished.

We should very much like to have your views on the question whether the statement taken in these proceedings is admissible in evidence against the defendant in circumstances such as these. We ourselves cannot see that subs. (3) of s. 113 of the Road Traffic Act, 1930, can possibly apply to the driver himself, to compel him to make a statement which strictly speaking he would not otherwise be obliged to give.

In the case in question it is all the more important that the statement should be made voluntarily because he had received notice of intended prosecution, and it seems to us to be something of a mockery to tell him in one breath that unless he divulges who was driving the car he would be guilty of one offence and then warning him in the next breath that he need not say anything at all unless he wished to do so.

Your views on the matter will be appreciated because as far as we can see there does not appear to be any decided case on this point.

JEREX.

Answer.

Section 21, as we read it, provides for the service of notice of intended prosecution on the alleged offender if he has been identified or on the registered owner of the vehicle if he has not. In this case, therefore, the implication is that the police had decided that P was the driver and that they intended to prosecute him.

Section 113 (3) allows the police to ask for information to enable them to identify the driver of a vehicle, and we think that s. 113 (3) (*b*) in speaking of "any other person" must mean any person other than the owner or the person whom the police have ascertained was the driver. We feel that this subsection must be construed strictly and that it must not be used, when the police have already decided to prosecute someone as the driver, to enable them to question him as "any other person" and thus, without any caution and under threat of prosecution for another offence, to compel him to strengthen the case against himself.

In the absence of a High Court decision the matter cannot be free from doubt, but if our view is correct then, in this case, although on getting the owner's reply the police could properly, to keep within time, have served notice under s. 21 on the owner and have asked P as "any other person" to say who was the driver, we do not think they were entitled so to question P, under s. 113 (3) (*b*), after they had notified him that they intended to prosecute him.

13.—Road Traffic Acts—*Provisional licence holder—Motor bicycle with tradesman's box sidecar attached—Carrying pillion passenger who is not a "qualified" driver.*

The holder of a provisional driving licence who has not passed a test is driving a motor bicycle with a tradesman's box sidecar attached. He carries on the pillion seat of the bicycle a passenger who is not the holder of a licence. It would seem that, since the sidecar is not constructed for the carriage of a passenger, the driver commits no offence against reg. 16, Motor Vehicles (Driving Licences) Regulations, 1950.

The situation appears so absurd that I fear my reasoning is at fault and I should be glad of your valued opinion.

J. TRING.

Answer.

The object of paras. 16 (3) (*a*) and 16 (3) (*b*) is clearly to ensure that if a provisional licence holder carries any passenger that passenger shall be a qualified driver. The two paragraphs are complementary the one to the other, and in our view "sidecar" in para. 16 (3) (*b*) must mean "sidecar constructed for the carriage of a passenger." Therefore, as this motor bicycle has not such a sidecar attached para. 16 (3) (*b*) applies to require that any passenger carried shall be a qualified driver.

14.—Road Traffic Acts—*Vehicles (Excise) Act—Prosecutions by police officers authorized by the local authority.*

It appears from the case of *Oberst* v. *Coombs* (1955) 53 L.G.R. 316, that a police officer is not "an officer of the local authority" for the purposes of s. 277, Local Government Act, 1933, which would in my view apply to proceedings under s. 15 of the Vehicles (Excise) Act, 1949. However, according to the 88th edn. of *Stone* this does not appear to be so. *See* pp. 1532, note *l*; 1670, note *u*; and 2164, note *i*.

Your views would be greatly appreciated.

JULIE.

Answer.

We discussed this question, putting forward the two points of view, in the article at 119 J.P.N. 310 which is referred to at note *i*, p. 2164 of the 88th edn. of *Stone*. We call attention, however, to a letter from the town clerk of Grimsby at p. 603, *ante*.

15.—Weights and Measures—*Sale of coke and wood fuel—Local Act—Weights and Measures Acts.*

By s. 15 (1) the Sale of Food (Weights and Measures) Act, 1926, is to be construed as one with the Weights and Measures Acts, 1878 to 1926, and it has been held in the case of *Hart* v. *Hudson Bros., Ltd.* (1928) 92 J.P. 170, that s. 12 (5) is available for the defence in prosecutions under the earlier Acts.

A local Act of 1954 seeks to apply to the sale of coke, wood and peat fuels within the borough, those provisions of the Weights and Measures Act, 1889, which apply to the sale of coal.

Is an offence of, say, delivering a quantity of coke of less weight than expressed in the weight ticket, an infringement of the Weights and Measures Act, 1889, or the local Act? Put in another way, do the conditions precedent to a prosecution contained in s. 12 (6) and the defence contained in s. 12 (5) of the Sale of Food (Weights and Measures) Act, 1926, apply in the case of a delivery of short weight coke?

S. RETRAL.

Answer.

In our opinion, since the local Act extends certain provisions of the Weights and Measures Acts to sales of coke, etc., in the borough, the offence would be against the section in the Weights and Measures Acts as extended by the local Act. We therefore think s. 12 (5) and (6) apply. These subsections are favourable to the defendant, and we think he should have the benefit of them if the matter be in doubt.